IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

CRL.A.No. 1144 of 2001()

CC.408/2000 of JUDL.MAGISTRATE OF FIRST CLASS, PERUMBAVOOR DT.4.10.2001.

.....

APPELLANT: COMPLAINANT

V.P.BABU, MANAGING PARTNER,
M/S. HEPTA DISTRIBUTORS,
RAYONPURAM P.O.

BY ADV. SRI.T.P.VARGHESE
SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SRI.N.SASI

RESPONDENTS: STATE AND ACCUSED
----

1. **STATE OF KERALA, REP.BY THE PUBLIC PROSECUTOR , HIGH COURT OF KERALA, ERNAKULAM.**

2. **MADHU, S/O. GANGADHARAN, PROPRIETOR, M/S. MADAPARAMBIL FURNITURE, KAYAMKULAM ROAD, THIRUVALLA.**

BY PUBLIC PROSECUTOR SRI.DILIP S.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 11/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.1144 of 2001

Dated this the 11th day of July, 2007

JUDGMENT

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(1) of Crl.P.C. as the complainant was absent.

2. It is submitted that the lapse was on account of the wrong noting of the posting date. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 9.8.2007.

The appeal is allowed.

K.R.UDAYABHANU,
JUDGE

csl